IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL ACTION NO. 4:16-CR-00018-
	§	ALM-BD
ADAM McCAULEY FRISHMAN (1)	§	

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Now before the court is the request for revocation of Defendant Adam McCauley Frishman's ("Defendant") supervised release. After the District Judge referred the matter to this court for a report and recommendation, the court conducted a hearing on December 18, 2024, to determine whether Defendant violated his supervised release. Defendant was represented by Douglas Schopmeyer. The Government was represented by Christpher Rapp.

Defendant was sentenced on October 27, 2016, before The Honorable Amos L. Mazzant, III of the Eastern District of Texas after pleading guilty to the offense of Felon in Possession of a Firearm, a Class C felony. This offense carried a statutory maximum imprisonment term of 10 years. The guideline imprisonment range, based on a total offense level of 15 and a criminal history category of V, was 37 to 46 months. Defendant was subsequently sentenced to 46 months imprisonment followed by 3 years supervised release subject to the standard conditions of release, plus special conditions to include financial disclosure, substance abuse testing and treatment, and the mandatory $100 special assessment. On April 18, 2019, Defendant completed his period of imprisonment and began service of the supervision term. On January 22, 2021, his terms of supervised release (Docket Nos: 4:16CR18 and 4:20CR103) were revoked, after Defendant violated his conditions of supervision by being arrested for possession of marijuana; possessing a 9mm handgun, magazines and ammunition; leaving his authorized district without permission;

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contacting associates who had been convicted of felony criminal activity; and failing to report for drug testing. Defendant was sentenced to 7 months imprisonment followed by 24 months supervised release in Docket No. 4:16CR00018 and 8 months imprisonment with no supervised release in Docket No. 4:20CR103. Defendant completed his period of imprisonment on February 17, 2022, and began service of his current term of supervised release.

On April 13, 2023, the United States Probation Officer executed a Petition for Warrant or Summons for Offender Under Supervision (Dkt. #61, Sealed). The Petition asserts that Defendant violated four (4) conditions of supervision, as follows[1]: (1) Mandatory Condition Defendant must not commit another federal, state, or local crime; (2) Mandatory Condition Defendant must not unlawfully possess a controlled substance; (3) Standard Condition Defendant must follow the instructions of the probation officer related to the conditions of supervision; and (5) Special Condition Defendant must participate in a program for substance abuse testing and treatment and must abide by all the rules and regulations of the treatment program until discharged. The probation officer, in consultation with the treatment provider, will supervise Defendant's participation in the program. (Dkt. #61 at pp. 1–2, Sealed).

The Petition alleges that Defendant committed the following acts: (1) & (2) On or about February 10, 2023, a McKinney, Texas, police officer initiated a traffic stop on Defendant after he failed to make a complete stop at a stop sign. While talking with Defendant, the officer observed a white trash bag on the rear passenger floorboard, that he suspected contained contraband. Defendant informed the officer the bag only contained trash. After the officer advised that he suspected the bag contained drugs, Defendant disclosed the bag contained marijuana. Defendant was then detained. A search of Defendant's vehicle revealed the trash bag contained a vacuum

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[1] The Petition numbered the four conditions as (1), (2), (3), and (5), inadvertently skipping (4). The court uses the same numbering as used in the Petition.

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sealed bag with 1.1 grams of marijuana. Inside the center console, the officer located six baggies of blue M30 pills and one baggie of 40mg pills, all believed to be Fentanyl. Additionally, another pill container found in the vehicle contained 48 M367 Hydrocodone pills. The Fentanyl weighed 64 grams and the Hydrocodone weighed 20.4 grams. The Fentanyl was not field tested due to risk of exposure. A total of $3,196 in currency, a watch, and two cell phones were seized as evidence. Defendant was arrested for Manufacture/Delivery of a Controlled Substance, a 1st Degree Felony, Possession of Marijuana and Manufacture/Delivery of a Controlled Substance, both State Jail Felonies. Defendant subsequently posted bond and these charges remained pending at the time the Petition was filed; (3) & (5) Defendant failed to report to the U.S Probation Office in Plano, Texas, as instructed for drug testing on March 15, 24, and 30, 2023. (Dkt. #61 at pp. 1–2, Sealed).

Prior to the Government putting on its case at the final revocation hearing, Defendant entered a plea of true to allegations 3 and 5 in the Petition. Having considered the Petition and the plea of true to allegations 3 and 5, the court finds that Defendant did violate his conditions of supervised release.

The Government moved to dismiss allegations 1 and 2 in the Petition

Defendant waived his right to allocute before the District Judge and his right to object to the report and recommendation of this court.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984, the court recommends that Defendant's supervised release be revoked and that he be committed to the custody of the Bureau of Prisons to be imprisoned for an additional term of twenty (20) months, with no term of supervised release to follow.

The court further recommends that the Government's motion to dismiss allegations 1 and 2 in the Petition be granted.

The court finally recommends that Defendant be housed in a Bureau of Prisons facility in the Seagoville, Texas area, if appropriate.

SIGNED this 2nd day of January, 2025.

AILEEN GOLDMAN DURRETT
UNITED STATES MAGISTRATE JUDGE